IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

SUIT NO.635 OF 1990

Radheshyam Goel ..Plaintiff.

Vs.

Mahanagar Telephone Nigam Ltd. ..Defendant.

...

Mr. Rajendra Mishra for the Plaintiff.
Mrs. S.I. Shah for the Defendant.

...

CORAM: DR. D.Y. CHANDRACHUD, J.

14th December, 2006.

P.C. :

1. Mr. Rajendra Mishra undertakes to file his Vakalatnama on behalf of the Plaintiff within a period of one week from today. Learned counsel states that he has received instructions on behalf of the Plaintiff.

2. The Plaintiff has raised a dispute in respect of nine bills issued by Mahanagar Telephone Nigam Limited who are Defendants to the suit. The dispute raised in the suit clearly falls within the purview of Section 7-B of the Indian Telegraphs Act, 1885 and can therefore, be determined by arbitration. Counsel

appearing for the Defendant has drawn the attention of the Court to orders passed by the Division Bench on 20th January, 2000 in Writ Petitions 134 of 1990 and 145 of 1990 wherein having regard to the judgment of the Supreme Court in **Telecom District Manager, Goa v. V.S. Dempo**[1], a statement was made on behalf of MTNL that the dispute be referred to arbitration. A similar statement has been made on behalf of the Defendant in this case to the effect that a reference would be made to arbitration under Section 7-B of the Indian Telegraphs Act, 1885. In that view of the matter, this suit can be disposed of in terms of the statement which has been made on behalf of the Defendant.

3. Under Section 7-B the Arbitrator has to be appointed by the Central Government. Counsel appearing on behalf of the Defendant states that in compliance with the directions issued by this Court in the aforesaid terms, the Defendant will move the Central Government for the appointment of an arbitrator under Section 7-B of the Indian Telegraphs Act, 1885 within a period of four weeks from today. The suit is accordingly disposed of.

4. Counsel appearing for the Defendant states that in Suit

1 AIR 1996 SC 1545.

2556 of 1987 an arbitrator has already been appointed in pursuance of the order of this Court dated 24th August, 2006 by the Central Government. Liberty is granted to the Defendant to move the Central Government to appoint the same arbitrator for administrative convenience, to deal with the subject matter of the present suit which is between the same parties.